

OFFICE OF THE GENERAL COUNSEL
Division of Operations-Management

MEMORANDUM OM 96-76

November 4, 1996

TO: All Regional Directors, Officers-In-Charge,
and Resident Officers

FROM: B. Allan Benson, Acting Associate General Counsel

SUBJECT: Settlement of William Perry Disciplinary Matter

The attached Order was issued by the Board approving the settlement of the disciplinary matter involving William Perry. Pursuant to the settlement, Mr. Perry is suspended from practicing before the Agency for a period of six months, from October 16, 1996 through April 15, 1997.

B. A. B.

MEMORANDUM OM 96-76

New York, NY

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**In the matter of
WILLIAM PERRY**

Case AD-6

ORDER APPROVING SETTLEMENT

On June 2, 1995, Administrative Law Judge Steven B. Fish issued a decision in Local 32B-32J, Service Employees International Union, AFL-CIO (Rima 106 L.P.), Case Nos. 2-CP-916 and -917, finding that the Respondent Union had violated Section 8(b)(7)(A) of the National Labor Relations Act by picketing the Employer with an object of forcing or requiring it to recognize and bargain with the Respondent Union at a time when the Employer had lawfully recognized the Charging Party Union, District 6, International Union of Industrial Service, Transport and Health Employees, and when a question concerning representation could not have been raised. In the remedy section of his decision, the administrative law judge also addressed a request made by Ira Sturm, counsel for the Respondent Union, that William Perry, the Charging Party's representative at the unfair labor practice hearing, be barred from further practice before the Board and be assessed monetary sanctions because of his conduct at the hearing. The judge found that certain

of the conduct committed by Perry during the hearing constituted sufficiently serious misconduct, particularly in light of the Board's previous warning to Perry regarding his conduct during the hearing in State Bank of India, 283 NLRB 266 (1987), to warrant further inquiry to determine whether suspension or disbarment would be appropriate.¹

Accordingly, the judge recommended that the board issue a notice to show cause, or, alternatively, an order directing a hearing.

No party filed any exceptions to the judge's decision. Accordingly, by unpublished order dated July 18, 1995, the administrative law judge's decision was adopted in the absence of exceptions.

Thereafter, by letter dated August 17, 1995 and served on all parties, counsel for the General Counsel recommended that the case be remanded to an administrative law judge for the taking of all appropriate evidence together with any mitigating circumstances so that a determination may be made on whether discipline should be imposed against Perry, and, if so, what that discipline should be.

On September 27, 1996, after duly considering the matter in light of the record, the administrative law judge's decision, the absence of any exceptions thereto, and

¹ The judge, however, rejected the request for monetary sanctions against Perry.

the General Counsel's recommendation, the Board issued an Order directing the Regional Director for Region 2 to schedule a hearing before an administrative law judge to determine whether Perry's conduct during the course of the hearing in Local 32B-32J, Service Employees International Union, AFL-CIO (Rima 106 L.P.), Case Nos. 2-CP-916 and -917, warrants his suspension or disbarment from further practice before the Agency under Sec. 102.44(b) of the Board's rules.²

Thereafter, on October 18, 1996, the Regional Director submitted to the Board an informal settlement which had been executed by Perry and counsel for the General Counsel and approved by Associate Chief Administrative Law Judge Joel P. Biblowitz on October 17 and 18, 1996, respectively. The

² In accordance with the administrative law judge's decision (to which, as indicated above, no exceptions were filed), the Board's order provided that the disciplinary hearing would be limited to addressing whether Perry's direct on-the-record references to Sturm's yarmulke and his on-the-record threats to hold Sturm "personally responsible" if any harm came to his son, warranted suspension or disbarment. Consistent with the judge's recommendation, however, the Board's order also permitted the General Counsel to litigate, and the administrative law judge to make findings and recommendations with respect to, Perry's alleged off-the-record threats to kill or physically harm Sturm, provided that Sturm or the General Counsel came forward prior to the outset of the disciplinary hearing and specified, either by affidavit or offer of proof, what Perry allegedly said off-the-record. The record provided to the Board with the settlement does not indicate whether Sturm or the General Counsel provided such an affidavit or offer of proof.

settlement, which contains an unqualified nonadmission clause, provides that Perry will be suspended from practicing before the Agency for a period of six months, from October 16, 1996, through April 15, 1997.

Having duly considered the matter, the Board has decided to approve the settlement. The Board has reservations, given the progressive nature of disciplinary sanctions and Perry's past misconduct, about approving an informal settlement containing an unqualified nonadmission clause in this case. However, under all the circumstances, and taking into account that the settlement provides for a substantial disciplinary sanction and has been approved by both the General Counsel and the Associate Chief Administrative Law Judge, the Board finds that it would effectuate the purposes and policies of the Act to approve the settlement. Accordingly,

IT IS ORDERED that the settlement is approved.

Dated, Washington, D.C., October 28, 1996

By direction of the Board:

John J. Toner

Executive Secretary

